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4 Attorney for Defendant Jimmy G.Y. Lee

5)
 6 UNITED STATES OF AMERICA)

7 Plaintiffs,)

8 vs.)

9 JIMMY GONG YANG LEE,)

10 Defendant.)
 11 _____)

CR No. 05-00395 CRB

**REQUEST, STIPULATION AND
ORDER**

12 This matter is currently on the Court's calendar for October 4, 2006. Through counsel,
 13 defendant Jimmy Gong Yang Lee and the United States ask the Court to (a) vacate the October 4,
 14 2006 date based on the defendant's anticipated plea agreement, (b) set a date of October 25, 2006 for
 15 change-of-plea, and exclude time under the Speedy Trial Act, 18 U.S.C. § 3161 from October 4, 2006
 16 to October 25, 2006.

17 1. The parties have been diligently working out the language of a plea agreement and request
 18 that the court set the matter for October 25, 2006 for change-of-plea. It was anticipated that a plea
 19 agreement would be signed and a plea of guilty entered on October 4, 2006, however, counsel for
 20 the government is unavailable on that date and there remain some minor ancillary matters which
 21 the defendant needs to deal with before entering his plea. The next date that both counsel are
 22 available is October 25, 2006.

23 2. The parties agree that the time between October 4, 2006 and October 25, 2006 should be
 24 excluded from the Speedy Trial Act clock. Previously, this Court has declared this case complex.,
 25 See 18 U.S.C. § 3161(h)(8)(B)(ii). Because of the absence of government counsel and the need for
 26 defense counsel to address some minor ancillary matters related to the plea the parties agree that the
 27 continuance is necessary for the continuity of counsel and effective preparation of defense counsel
 28 taking into consideration of due diligence. See 18 U.S.C. §3161(h)(8)(B)(iv). The parties also agree

1 that the ends of justice served by excluding the period from October 4, 2006 to October 25, 2006
 2 outweigh the interest of the public and the defendant to a Speedy Trial. See id.
 3 3161(h)(8)(A).

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 5 STIPULATED:

6
 7 DATE: September 28, 2006

/S/ PETER B. AXELROD
 PETER B. AXELROD
 LAUREL BEELER
 Assistant U.S. Attorneys

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 9
 10 DATE: September 28, 2006

/S/ ALAN DRESSLER
 Alan Dressler
 Attorney for Defendant
 Jimmy Gong Yan Lee

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 14 **ORDER**

15 For good cause shown, and for the reasons stated above, the Court (a) vacates the October 25,
 16 2006, hearing date for defendant Jimmy Gong Yang Lee based on the anticipated plea agreement,
 17 (b) sets the matter for change-of-plea on October 25, 2006 at ^{2:15}~~2:00~~ p.m., and (c) excludes time under
 18 the Speedy Trial Act, 18 U.S.C. § 3161, from October 4, 2006 to October 25, 2006. The Court finds
 19 that the failure to grant the requested exclusion would deny the defendant continuity of counsel and
 20 defense counsel reasonable time necessary for effective preparation taking into account the exercise
 21 of due diligence. Further, the Court finds the exclusion warranted on complexity grounds, under 18
 22 U.S.C. § 3161(h)(8)(B)(ii). Thus, the Court finds the ends of justice served by granting the requested
 23 exclusion outweigh the best interest of the public and the defendant in a speedy trial and in prompt

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1 disposition of criminal cases. The Court therefore concludes that this exclusion of time should be
2 made under 18 U.S.C. §3161(h)(8)(A), (h)(8)(B)(ii) and (h)(8)(B)(iv).

3 **IT IS SO ORDERED.**

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5 DATED: September 29, 2006

6 CHARLES R. BREYER
United States District Judge

